



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/583,824

07/26/2007

Mark La Pensee

061608-0310

4929

30542

7590

04/24/2009

FOLEY & LARDNER LLP

P.O. BOX 80278

SAN DIEGO, CA 92138-0278

EXAMINER

DENNISON, JERRY B

ART UNIT

PAPER NUMBER

2443

MAIL DATE

DELIVERY MODE

04/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,824	Applicant(s) LA PENSEE, MARK	
	Examiner J Bret Dennison	Art Unit 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

1. This Action is in response to the Amendment for Application Number 10/583,824 received on 2/06/2009.
2. Claims 1-13 are presented for examination.
3. The prosecution for this case has been transferred to another Examiner. All corresponding communications should be directed to Examiner's contact information, provided below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau et al. (US 20020120696), further in view of Schwitters et al. (US 20020099719), hereinafter referred to as Mousseau and Schwitters respectively.

With regard to claim 1, Mousseau teaches A method for synchronising data between a client device and a server device, at least one of the client device and the server device having synchronisation means, the method comprising: defining a first folder in a memory of the client device (see paragraph 100, wherein folders are stored on a mobile device); defining a second folder in a memory of the server device (see paragraph 100, wherein folders are stored on a host system); storing in the first folder data items of a certain type to be synchronized from the client device (see paragraph

Art Unit: 2443

0009, wherein data items are stored in a folder on a mobile device and synchronized); storing in the second folder data items of the same type to be synchronized from the server device (see paragraph 0009 wherein data items are replicated from the mobile device and stored in a host system and synchronized); and associating with each data item stored in the first and second folders an identifier for identifying the item (see paragraph 100, wherein a data item such as messages includes a message ID); and the synchronisation means being adapted to synchronise data items in the first and second folders on connection of the client device to the server device (see bottom of paragraph 0099, wherein synchronization occurs by plugging the mobile device into an interface cradle coupled to the host system).

However, the Mousseau reference does not teach wherein the client device and the server device being arranged such that a user of the devices cannot create subfolders within the first or second folders. Schwitters does teach such a limitation. According to Schwitters, in a hierarchical folder structure, the folder module might limit or control the number and type of folder hierarchies a user can create in a device (see bottom of paragraph 0049). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Mousseau and Schwitters to limit the number of hierarchical folders a user can create, wherein the limit could be a predetermined value, so that a user of the device would not be allowed to create any additional subfolders based on that limit. Limiting a user from creating subfolders would have restricted a user from forming different names or renaming each subfolder and in turn would have reduced the risk of

preventing synchronization since a hierarchical file system has the drawback of not being able to track when a folder has been renamed.

With regard to claim 2, the Mousseau reference in combination with the Schwitters reference as applied above teaches a method as claimed in claim 1 wherein the first and second folders are respectively parts of file systems within the client device and the server device (see paragraph 0009 wherein the folders stored in the host system and mobile device are parts of a hierarchy of folders file system stored on each) and the file systems are such that any type of data can be stored in such a way that it can be synchronised on connection of the client device to the server device (see paragraph 0170 wherein data items stored on the device can include but are not limited to e-mail, calendar events, appointments etc., and synchronized between the device and host system).

With regard to claim 3, the Mousseau reference in combination with the Schwitters reference as applied above teaches a methods as claimed in claim 1 wherein each data item identifier is unique within the client and server devices (see paragraph 0100 wherein the message ID is a unique tag for each message within each device).

With regard to claim 4, the Mousseau reference in combination with the Schwitters reference as applied above teaches a method as claimed in claim 1 wherein a data item stored in the first folder or the second folder is associated with a corresponding data item stored in the second folder or the first folder respectively by means of the identifier of the data item (see paragraph 0102 wherein the message IDs

Art Unit: 2443

of the stored messages on the host system are matched with the message IDs of the messages stored on the mobile device).

With regard to claim 5, the Mousseau reference teaches A device for storing data, the device comprising a memory having a first folder (see paragraphs 0009 wherein a host system includes a primary memory store [see paragraph 0013] where data items are stored and data items are stored in a folder), wherein: the first folder comprises data items of a certain type to be synchronized with a remote device, each data item having an associated identifier for identifying the item (see paragraph 0009, wherein data items are stored in a folder on a host system and synchronized; and paragraph 100 wherein a data item such as messages includes a message ID); and synchronisation means within the device or the remote device are adapted to synchronise data items in the first folder with the remote device on connection of the device to the remote device (see bottom of paragraph 0099, wherein synchronization occurs by plugging the mobile device into an interface cradle coupled to the host system).

However, the Mousseau reference does not teach wherein the device is adapted to prevent a user from creating subfolders within the first folder. Schwitters does teach such a limitation. According to Schwitters, in a hierarchical folder structure, the folder module might limit or control the number and type of folder hierarchies a user can create in a device (see bottom of paragraph 0049). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Mousseau and Schwitters to limit the number of

Art Unit: 2443

hierarchical folders a user can create, wherein the limit could be a predetermined value, so that a user of the device would not be allowed to create any additional subfolders based on that limit. Limiting a user from creating subfolders would have restricted a user from forming different names or renaming each subfolder and in turn would have reduced the risk of preventing synchronization since a hierarchical file system has the drawback of not being able to track when a folder has been renamed.

With regard to claim 6, the Mousseau reference in combination with the Schwitters reference as applied above teaches the device according to claim 5 wherein the synchronising means are adapted to synchronise data items in the first folder with corresponding data items stored in a second folder in the memory of the remote device (see paragraph 0009 wherein data items are synchronized between the host system and the mobile device).

With regard to claim 7, the Mousseau reference in combination with the Schwitters reference as applied above teaches the device according to claim 5 wherein the first folder is a part of a file system within the device and the file system is such that any type of data can be stored in such a way that it can be synchronised with the remote device on connection of the device to the remote device (see paragraph 0009 wherein the folders stored in the host system are parts of a hierarchy of folders file system; and paragraph 0170 wherein data items stored on the device can include but are not limited to e-mail, calendar events, appointments etc., and synchronized between the device and host system).

With regard to claim 8, the Mousseau reference in combination with the Schwitters reference as applied above teaches the device according to claim 5 wherein each data item identifier is unique within the device (see paragraph 0100 wherein the message ID is a unique tag for each message within each device).

With regard to claim 9, the Mousseau reference in combination with the Schwitters reference as applied above teaches the device according to claim 5 wherein a data item stored within the first folder is associated with a corresponding data item stored in the remote device by means of the identifier of the data item (see paragraph 0102 wherein the message IDs of the messages stored on the host system are matched with the message IDs of the messages stored on the mobile device).

With regard to claim 10, the Mousseau reference teaches a system comprising: a client device comprising a memory having a first folder, the first folder comprising data items of a certain type to be synchronised from the client device (see paragraph 0009 and 0099 wherein data items such as messages are stored in a folder in a mobile device memory [see paragraph 0074] and synchronized); a server device comprising a memory having a second folder, the second folder comprising data items of the same type to be synchronised from the server device (see paragraph 0009 wherein data items replicated from the mobile device are stored in a folder on a memory of the host system [see paragraph 0013] and synchronized); and synchronisation means within at least one of the client device and the server device (see paragraph 0009 wherein synchronization is implemented using software operating on the host system and mobile device); wherein each data item in the first and second folders is associated with an identifier for

Art Unit: 2443

identifying the data item (see paragraph 0100 wherein data items such as messages each include a message ID); and the synchronisation means are adapted to synchronise data items in the first and second folders on connection of the client device to the server device (see bottom of paragraph 0099, wherein synchronization occurs by plugging the mobile device into an interface cradle coupled to the host system).

However, the Mousseau reference does not teach wherein the client device and the server device are adapted to prevent a user of the devices from creating subfolders within the first or second folders. Schwitters does teach such a limitation. According to Schwitters, in a hierarchical folder structure, the folder module might limit or control the number and type of folder hierarchies a user can create in a device (see bottom of paragraph 0049). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Mosseau and Schwitters to limit the number of hierarchical folders a user can create, wherein the limit could be a predetermined value, so that a user of the device would not be allowed to create any additional subfolders based on that limit. Limiting a user from creating subfolders would have restricted a user from forming different names or renaming each subfolder and in turn would have reduced the risk of preventing synchronization since a hierarchical file system has the drawback of not being able to track when a folder has been renamed.

With regard to claim 11, the Mousseau reference in combination with the Schwitters reference as applied above teaches a system according to claim 10 wherein the first and second folders are respectively parts of file systems within the client device

Art Unit: 2443

and the server device (see paragraph 0009 wherein the folders stored in the host system and mobile device are parts of a hierarchy of folders file system stored on each) and the file systems are such that any type of data can be stored in such a way that it can be synchronised on connection of the client device to the server device (see paragraph 0170 wherein data items stored on the device can include but are not limited to e-mail, calendar events, appointments etc., and synchronized between the device and host system).

With regard to claim 12, the Mousseau reference in combination with the Schwitters reference as applied above teaches a system according to claim 10 wherein each data item identifier is unique within the client and server devices (see paragraph 0100 wherein data items such as messages each include a unique message ID within each device).

With regard to claim 13, the Mousseau reference in combination with the Schwitters reference as applied above teaches a system according to claim 10 wherein a data item stored in the first folder or the second folder is associated with a corresponding data item stored in the second folder or the first folder respectively by means of the identifier of the data item (see paragraph 0102 wherein the message IDs of the messages stored on the host system are matched with the message IDs of the messages stored on the mobile device).

Response to Amendment

Applicant's arguments and amendments filed on 2/06/2009 have been carefully considered but they are not deemed fully persuasive.

Applicant argues, "Schwitters discloses that limiting/controlling may be implemented; however, complete prevention of creating folders within the database is neither taught nor suggested" [Response, page 8].

Examiner respectfully disagrees.

If the system has control over the user being able to create folders, as well as is able to limit the user from being able to create folders, then it is evident that such control and limiting allows the system to restrict the user from creating folders to any predetermined amount. It would have been obvious to set this value to any value as desired by the programmer, including zero. There are no boundaries disclosed by Schwitters.

Applicant argues, "Further, such a restriction would be counterproductive to the hierarchical method disclosed by Schwitters" [Response, p8].

Examiner respectfully disagrees.

Examiner notes that Schwitters even provides an example where the user does not create any folders. Schwitters disclosed that the system limits the structure of folders and provides an example where the system only limits the structure to an Inbox, Outbox, and Sent folders, all of these folders being created folders by the system ([0049]). In other words, the user is unable to create any other folders.

As such, the rejections are respectfully maintained.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in a manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 2443

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J Bret Dennison/
Primary Examiner, Art Unit 2443

Application/Control Number: 10/583,824
Art Unit: 2443

Page 13